

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

VIRTAMOVE, CORP.,	§	Case No. 2:24-cv-00093-JRG
	§	(Lead Case)
Plaintiff,	§	
	§	
v.	§	JURY TRIAL DEMANDED
	§	
HEWLETT PACKARD ENTERPRISE	§	
COMPANY,	§	
	§	
Defendant.	§	

VIRTAMOVE, CORP.,	§	Case No. 2:24-cv-00064-JRG
	§	(Member Case)
Plaintiff,	§	
	§	
v.	§	JURY TRIAL DEMANDED
	§	
INTERNATIONAL BUSINESS MACHINES	§	
CORP.,	§	
	§	
Defendant.	§	

**DECLARATION OF KYLE A. CALHOUN IN SUPPORT OF DEFENDANT
INTERNATIONAL BUSINESS MACHINES CORP.’S OPENING BRIEF IN SUPPORT
OF ITS MOTION FOR SUMMARY JUDGMENT OF NO WILLFUL INFRINGEMENT**

I, Kyle A. Calhoun, hereby declare:

1. I am a partner at Kirkland & Ellis LLP, counsel of record for Defendant International Business Machines Corp. (“IBM”) in the above-captioned action. I make this declaration based on my personal knowledge and review of the documents referenced herein. If called to testify, I could and would testify competently to the matters set forth below.

2. Attached as Exhibit 1 is a true and correct copy of VirtaMove’s Eighth Supplemental Objections and Responses to IBM’s First Set of Interrogatories, dated 5/29/2025.

3. Attached as Exhibit 2 is a true and correct copy of excerpts from the 12/872,996 file history.

4. Attached as Exhibit 3 is a true and correct copy of excerpts from the 13/671,422 file history.

5. Attached as Exhibit 4 is a true and correct copy of the U.S. Patent Application Publication 2009/0328117.

6. Attached as Exhibit 5 is a true and correct copy of VirtaMove's Supplemental Objections and Responses to IBM's Second Set of Interrogatories, dated 5/29/2025.

7. Attached as Exhibit 6 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0001692.

8. Attached as Exhibit 7 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0001766.

9. Attached as Exhibit 8 is a true and correct copy of excerpts from the Invalidity Opening Expert Report of Stephen Wicker, dated 6/23/2025.

10. Attached as Exhibit 9 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0001542.

11. Attached as Exhibit 10 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0001609.

12. Attached as Exhibit 11 is a true and correct copy of a production document from Hewlett Packard Enterprise Company, bearing beginning bates VM_HPE_0000001.

13. Attached as Exhibit 12 is a true and correct copy of VirtaMove's Objections and Responses to IBM's Second Set of Requests for Admission, dated 5/29/2025.

14. Attached as Exhibit 13 is a true and correct copy of excerpts from the Nigel Stokes deposition transcript, dated 5/21/2025.

15. Attached as Exhibit 14 is a true and correct copy of excerpts from Greg O'Connor's Deposition Transcript, dated 5/15/2025.

16. Attached as Exhibit 15 is a true and correct copy of excerpts from the Donn Rochette Deposition Transcript, dated 5/5/2025.

17. Attached as Exhibit 16 is a true and correct copy of excerpts from the Paul O'Leary Deposition Transcript, dated 5/14/2025.

18. Attached as Exhibit 17 is a true and correct copy of excerpts from the Dean Huffman Deposition Transcript, dated 5/21/2025.

19. Exhibit 18 is a true and correct copy of excerpts from Walter Falk's Deposition Transcript, dated 5/13/2025.

20. Exhibit 19 is a true and correct copy of excerpts from Mac Devine's Deposition Transcript, dated 5/29/2025.

21. Attached as Exhibit 20 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0000425.

22. Attached as Exhibit 21 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0000427.

23. Attached as Exhibit 22 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0031260.

24. Attached as Exhibit 23 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0030244.

25. Attached as Exhibit 24 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0001958.

26. Attached as Exhibit 25 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0001923.

27. Attached as Exhibit 26 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0041772.

28. Attached as Exhibit 27 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0001963.

29. Attached as Exhibit 28 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0001915.

30. Attached as Exhibit 29 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0029966.

31. Attached as Exhibit 30 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0042423.

32. Attached as Exhibit 31 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0000457.

33. Attached as Exhibit 32 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0034925.

34. Attached as Exhibit 33 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0035102.

35. Attached as Exhibit 34 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0035059.

36. Attached as Exhibit 35 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0035060.

37. Attached as Exhibit 36 is a true and correct copy of a production document from VirtaMove, bearing beginning bates VM_IBM_0035063.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 28, 2025 in Atlanta, GA.

/s/ Kyle A. Calhoun

Kyle A. Calhoun

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system pursuant to Local Rule CV-5(a)(3) on July 28, 2025.

/s/ Todd M. Friedman

Todd M. Friedman